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[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1382, 1383, 1385; Dec. Dig. § 401 (1).* 7 Va.-W. Va. Enc. Dig. 715. For an interesting and instructive criticism of the decision on the point contained in this headnote see the letter of Hon. M. R. Peterson, published under the title "Correspondence" in this issue.]

9. Railroads (§ 398 (1)*)—Injuries on Track—Sufficiency of Evidence.—In an action against an electric railroad for a death on its bridge, evidence held sufficient to support a verdict for the plaintiff.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1356, 1363; Dec. Dig. § 398 (1).* 11 Va.-W. Va. Enc. Dig. 597.]

10. Negligence (§ 96*)—Injuries on Track—Contributory Negligence of Parents.—Where the parents of a boy about six years old, resident in a city, allowed him to play on the streets near his home and within certain well-defined limits, and on the afternoon when the boy was killed on the bridge of an electric railway crossing the Potomac river the father had left him on the street three doors from their home shortly before the accident, telling him to stay at home that afternoon, they were not guilty of contributory negligence.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. §§ 157-161; Dec. Dig. § 96.* 7 Va.-W. Va. Enc. Dig. 340.]

Error to Circuit Court, Alexandria County.

Action by John M. Ward's administrator against the Washington & Old Dominion Railway. Judgment for plaintiff, and defendant brings error. Judgment affirmed.

C. E. Nicol, of Alexandria, and *W. J. Lambert* and *Geo. B. Fraser*, both of Washington, D. C., for plaintiff in error.

Crandal Mackey, of Washington, D. C., for defendant in error.

CITY OF HAMPTON *v.* WATSON.

June 8, 1916.

[89 S. E. 81.]

Fish (§ 7 (3)*)—Pollution of Navigable Waters—Lessees of Oyster Grounds.—While the bed and waters below low-water mark of a tidal navigable arm of the sea within the state belong to the state, subject to right of navigation, they are held by it in a sovereign capacity in trust for the public, and cannot be granted to an individual so as to impair the public interests therein or use thereof, one of which is the right of a city to empty its sewage into such waters; and therefore a lessee from the state of lands thereunder for oyster beds has no claim against the city for injury thereto from such pollution of the water.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

[Ed. Note.—For other cases, see *Fish*, Cent. Dig. § 15; Dec. Dig. § 7 (3).* 6 Va.-W. Va. Enc. Dig. 143.]

Error to Circuit Court, Elizabeth City County.

Action by S. J. Watson, Sr., against the City of Hampton. Judgment for plaintiff, and defendant brings error. Reversed.

W. C. L. Taliaferro, of Hampton, and *J. A. Massie*, of Newport News, for plaintiff in error.

S. J. Dudley and *C. V. Spratley*, both of Hampton, for defendant in error.

VIRGINIA RY. & POWER CO. *v.* WINSTEAD'S ADM'R.

June 8, 1916.

[89 S. E. 83.]

1. Street Railroads (§ 81 (1)*)—Injuries to Persons on Track—Negligence.—An essential ingredient of negligence is that it involves the violation of a legal duty which one person owes to another, and without showing such violation of duty no recovery for the death of one run down by a street car can be had.

[Ed. Note.—For other cases, see *Street Railroads*, Cent. Dig. §§ 172, 173; Dec. Dig. § 81 (1).* 12 Va.-W. Va. Enc. Dig. 840.]

2. Street Railroads (§ 81 (5)*)—Headlights—Duty to Use.—In the absence of statute or municipal ordinance, a street railway company is bound to provide its cars with headlights to warn persons on the street of the approach of the cars, and to enable the operators to avoid injuring others using the street.

[Ed. Note.—For other cases, see *Street Railroads*, Cent. Dig. § 174; Dec. Dig. § 81 (5).* 12 Va.-W. Va. Enc. Dig. 840.]

3. Street Railroads (§ 101*)—Injuries to Persons on Tracks—Duty of Care.—Where a person becomes intoxicated and lies down in the street near street car tracks, so that at night his presence can hardly be distinguished, he occupies a position similar to that of the trespasser on the steam railroad right of way, and the street car company owes him no duty save to avoid injuring him after discovering his peril.

[Ed. Note.—For other cases, see *Street Railroads*, Dec. Dig. § 101.* 12 Va.-W. Va. Enc. Dig. 845.]

4. Street Railroads (§ 93 (4)*)—Injuries to Persons on Tracks—Negligence.—Where the motorman in charge of a street car saw an object near the tracks which he took to be a pile of trash and did not discover that it was an intoxicated man until too close to stop the car, the company is not liable, for the motorman was not required to stop the car before ascertaining that the supposed trash was a human being.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.